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SUMMARY RECORD OF THE 1057th MEETING

Held at Headquarters, New York,
on Tuesday, 9 April 1991, at 10 a.m.

Chairman: Mr. POCAR

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of Sri Lanka (CCPR/C/42/Add.9)

1. At the invitation of the Chairman, Mr. de Silva (Sri Lanka) took a place at the Committee table.

2. The CHAIRMAN invited the Committee to begin consideration of the second periodic report of Sri Lanka. He reminded the Committee that the Sri Lankan Government had very recently submitted a written response to the list of issues, which would facilitate the discussion considerably.

3. Mr. de SILVA (Sri Lanka) said that as the list of issues had been so detailed, his Government had felt it best to respond in writing. He would in his opening statement refer to his Government's submission only briefly. He stood ready to answer any further questions members might have.

4. Firstly, however, he wished to provide some general background information. The Constitution of 1978, which guaranteed fundamental rights and provided judicial remedies for their protection, had recently been reviewed in the light of practical experience with its application. Certain changes to the Constitution were proposed which would enhance those rights. Those changes were contained in the proposed Seventeenth Amendment, which was currently under discussion in Parliament. The Constitution of Sri Lanka could be amended only by a two-thirds majority of the members of Parliament, which necessarily required the support of members of the opposition.

5. Sri Lanka was currently plagued by terrorist activities carried out by separatists in the northern and eastern provinces, and the violence had spread elsewhere in the country. To protect the law-abiding from such attacks, the Government had used the powers vested in it under the Terrorism (Temporary Provisions) Act and the Emergency Regulations. The Government was fully aware that such provisions represented a departure from the rights under the Covenant, but took the view that they did not exceed the derogations allowed under article 4 (1) of the Covenant. The terrorist emergency had abated somewhat, but its extent could be appreciated only by someone who had actually lived through it. There had been acts of violence and murder, not only against the security forces but against innocent civilians, prominent personalities, journalists, and even people such as bus drivers who had defied the terrorists' ban on travel to work. Only a skeleton civil administration was left in place in the northern and eastern provinces, and political activity was at a virtual standstill. The Government was determined to return the situation to normal, and as soon as it did so, all of the special provisions would be repealed.

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6. The Covenant could not be directly invoked before the courts in Sri Lanka. Sri Lanka followed the legal principle that international law became part of domestic law only upon formal incorporation. However, the rights provided for under the Covenant were enshrined in the chapter of the Constitution dealing with fundamental rights. As all legislation enacted in Sri Lanka was required to conform with the constitutional provisions on fundamental rights, compliance with the Covenant was automatic.

7. When the 1978 Constitution had been introduced, provision was made for existing laws to continue in force, with those that were in conflict with the Constitution being modified, gradually following review by a Law Commission. Some of the laws which required change had been in force for centuries and it would be too traumatic to change them at a stroke.

8. Various concerns had been expressed with regard to the proposed Seventeenth Amendment. The first related to references to "ethnic group" rather than "race" in the context of discrimination. The Government of Sri Lanka considered the concept of "race" to be inappropriate in that context. All human beings were members of one race, but they were divided into different national and ethnic groups. Reservations had also been expressed with regard to the phrase "in a language which he appears to understand" in connection with the mandatory requirement to read an accused person his rights. While it had been said that the formulation "which he understands" might be preferable, he felt it legally dubious that one could prove that a detainee actually understood a language. All that was possible was to adduce circumstantial evidence that he appeared to understand it.

9. Concerns had also been expressed that the Emergency Regulations were in force without time-limit. Legally speaking, that was not correct. They were in force only for one month at a time, and had to be renewed, following approval by Parliament. Similarly, detention orders under the Emergency Regulations had to be renewed every month. That provision had been upheld by a decision of the Supreme Court.

10. There had been reservations with regard to the absence of specified time-limits for the commencement and conclusion of trials. Sri Lanka considered it an unfair interference with the independence of the judiciary to set such time-limits, considering it preferable to require cases to come to trial "within a reasonable period of time", and to leave it to the courts to determine what was "reasonable". While justice delayed might be justice denied, it was preferable to injustice expedited.

11. With regard to the concern expressed over the proposal to replace the phrase "executive or administrative action" by "state action" in article 126 of the Constitution, he said that it had been Sri Lanka's experience that the issue of whether a given activity of the State was an executive or administrative action had led to unending contention, whereas "state action" was a clear legal concept.

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12. Concerns had also been expressed over the provision that statements made by a suspect at the time of arrest would be admissible in court. While such admissibility was not at all uncommon in many jurisdictions, in the past it had been prohibited under Sri Lankan law, on the grounds that an arresting police officer might have used duress to extract a confession. It was now felt, however, that provided the suspect's lawyer was present, a statement made to the police at the time of arrest should be admissible in court. Such confessions would still be subject to control by the courts, and no statements made under duress would be admissible.

13. It had also been alleged that the proposed amendment to the Constitution sought to introduce the death penalty without due process of law. That was a totally inaccurate and very unfair misconstruction of the intention of the amendment. The death penalty could be imposed only for a very limited number of offences and only after a full trial. In the event of a sentence of death, there was a mandatory appellate review and mandatory consideration by the executive to determine whether or not the sentence should be carried out. Since 1977, there had been no executions in Sri Lanka, even though people had been sentenced to death.

14. The fear had also been expressed that the proposed amendment sought to do away with the presumption of innocence. That too was a misinterpretation of the intention. The proposed amendment placed the burden on the accused in certain circumstances to establish a fact which was within his special knowledge. It was not uncommon in various legal systems to require an accused person who wished to adduce in his defence a fact within his special knowledge to establish that fact, but the burden of proving guilt was never removed from the prosecution by such a provision.

15. Concern had also been expressed about the provision for making certain laws retroactive, but that provision had to be seen in the light of the very important proviso accompanying it, namely, that an action which had not been a criminal offence at the time it was committed could be criminalized retroactively only if it was recognized as a crime by the international community. A case in point was the hijacking of aircraft.

16. It was a misinterpretation of the intent of the proposed constitutional amendment to assert that Sri Lanka intended to place restrictions on religion, thought and conscience. On the contrary, article 10 of the Constitution, which was non-derogable, guaranteed freedom of religion, thought and conscience. What was intended in the proposed amendment was to place restrictions on the manifestations of various religions, which was a necessary provision to ensure harmony in any society whose members professed different religions. Article 18 (3) of the Covenant permitted such restrictions.

17. The concerns regarding restriction of the fundamental rights of members of the armed forces were also unfounded. A serviceman accused of a civilian crime would automatically enjoy the fundamental rights guaranteed under the

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Constitution. Military sanctions, up to and including a court martial, applied only to offences committed by a serviceman in his capacity as a member of the armed forces and in the performance of his official duties.

18. There had been concerns on the restrictions of fundamental rights under the Emergency Regulations. It had to be remembered that any emergency regulation had to be consistent with the Constitution and hence, automatically, with the Covenant. While any guaranteed right might be restricted by emergency regulations, such regulations themselves were governed by the Constitution.

19. His Government would welcome the views of the Committee on the proposed amendment as they might be helpful in the deliberations on it currently in progress in Parliament. He emphasized, however, that the various provisions of the proposed amendment had to be viewed in their proper context.

Constitutional and legal framework within which the Covenant is implemented, in particular during the state of emergency (articles 2 (2), 3 and 4 of the Covenant) (section I of the list of issues)

20. The CHAIRMAN read out section I of the list of issues concerning the second periodic report of Sri Lanka, namely: (a) clarification of the status of the Covenant within the Sri Lankan legal system, in particular, how contradictions between domestic legislation and the Covenant, if any, were resolved; (b) examples, if any, of cases during the period under review where the provisions of the Covenant had been directly invoked before the courts; (c) information on the extent to which the provisions of article 155 of the Constitution relating to parliamentary control of the proclamation of a state of emergency had been effectively applied; (d) description of the impact of the state of emergency on the exercise of the rights guaranteed under the Covenant, in particular with regard to safeguards and remedies available to individuals; (e) clarification of the role of the Advisory Board mentioned in paragraph 13 of the report, and the statement in paragraph 14 that "only a handful" of the 600 applications for a writ of habeas corpus in 1989 had been of sufficient merit to require the intervention of the court; (f) details of the relationship between the courts and non-judicial bodies operating under the state of emergency such as the Advisory Board, the committees established to monitor the activities of the security forces and to probe into the arrest of students, and the Parliamentary Commissioner, and information on whether individuals who failed to obtain redress through such bodies could apply directly to the courts; (g) any other factors and difficulties affecting the implementation of the Covenant, and, in particular, the impact of the cultures and traditions of Sri Lanka on the implementation of human rights contained in the Covenant; and (h) information on the measures taken to promote public awareness of the provisions of the Covenant.

21. Mr. de SILVA (Sri Lanka) said that he had already dealt with section I (a) and (b), but would be happy to answer any supplementary questions put. With regard to section I (c), he said that the provisions of article 155 required that the declaration of a state of emergency had to be ratified by Parliament. Emergency regulations could override any laws of Sri Lanka except the Constitution itself, and there had been instances of such regulations being struck down on grounds of unconstitutionality.

22. With regard to section I (d), he explained that only the derogations permitted by the Covenant itself were permitted by emergency regulations. Safeguards with regard to writ of habeas corpus and the ability to challenge the validity of the regulations in a court of law, remain unimpaired.

23. With regard to section I (e), it was his assumption that the reasons for the very small number of applications for habeas corpus which had proved to have merit were twofold: in some cases the families of detainees were, he suspected, using habeas corpus on a speculative basis as a device by which to test the validity of the detention; in others, people sought, by filing a writ of habeas corpus, to have higher priority given to the processing of cases in which they had some interest.

24. He felt that he had already provided the information sought in section I (f) and (g), but was prepared to answer any additional questions members might wish to ask.

25. With regard to section I (h), he explained that materials providing information on the various human rights instruments had been distributed to the armed forces and the police, posters promoting those instruments had been prepared in the three languages used in Sri Lanka and displayed at places of maximum exposure to service personnel, seminars on human rights topics had been conducted for members of the armed forces and the police, and teaching about human rights had been made a part of the school curriculum.

26. Mr. MAVROMMATIS said he understood the difficulties Sri Lanka was facing; but it was perhaps in such difficult circumstances that the greatest vigilance was called for in the protection of human rights. He wondered whether the Committee could be given further clarification of the current situation with regard to Sri Lanka's derogations from the Covenant.

27. Mr. ANDO said that he, too, understood the difficulties Sri Lanka was currently facing. In connection with section I (f), he asked if specific examples of the effective functioning of the system established to monitor the activities of the security forces could be given to the Committee. The state of emergency still in effect in Sri Lanka entailed the imposition of restrictions on human rights which could be judged only on the basis of the criteria of reasonableness and the maintenance of minimum international standards. He would be grateful for a further clarification of the situation in Sri Lanka from that point of view.

28. Ms. CHANET said that it would be helpful to be given a more detailed and clearer statement of the extent to which the emergency legislation derogated from the Covenant. The same was true with respect to the anti-terrorism legislation; in that connection, she asked for clarification of the connection between terrorism and some of the activities listed in Sri Lanka's written reply to the Committee's questions as subject to penal sanctions under the Prevention of Terrorism (Temporary Provisions) Act, such as stealing from cooperatives and writing on walls.

29. The last sentence of paragraph 15 of the addendum to Sri Lanka's second periodic report (CCPR/C/42/Add.9) seemed to indicate that the proposed amendments to the Constitution would make possible the maintenance of a permanent state of emergency, a state of affairs that seemed incompatible with articles 9 and 14 of the Covenant. She wondered if any legal provision had been made for ensuring that the amended Constitution would remain compatible with the Covenant.

30. Mr. PRADO VALLEJO said it seemed from paragraphs 13 and 14 of the addendum to Sri Lanka's second report that although many citizens had resorted to the remedy of habeas corpus only a few had benefited from it, and that the remedy was not therefore functioning very effectively. It also seemed from the report that delays of up to two years could occur before action was taken on a writ of habeas corpus, a situation that seemed incompatible with the very purpose of the remedy. Moreover, it appeared from article 126, paragraph 2, of Sri Lanka's Constitution that a time-limit of one month had been established in which to apply for the remedy, and that such application could be made only in Colombo. That, too, seemed a limitation of the basic human right involved. He wondered if further clarification could be provided on those points.

31. He would also appreciate information on what remedy was available to citizens of Sri Lanka whose human rights had been violated by the Indian forces sent to the country, and what action had been taken by the Sri Lankan Government with respect to the complaints of disappearances as a result of actions undertaken by Indian troops.

32. Mr. SADI said that he still felt some concern with respect to the status of the Covenant under Sri Lankan law, particularly in view of the fact that, as the Committee had been informed, the Covenant could not be invoked directly in a court of law. He asked for further clarification of that point.

33. The Sri Lankan representative's statement that, although divergencies existed between his country's Constitution and the Covenant, the Sri Lankan Government was reluctant to take immediate action, also gave grounds for concern. He asked for further information about the nature of the problems the Government feared might arise if the Constitution was amended to bring it into conformity with the standards of the Covenant.

34. Mr. AGUILAR said that while the somewhat laconic report stated that most articles of the Covenant were incorporated into the Sri Lankan Constitution, the right to life was not incorporated in the form in which it existed in the Covenant, merely the right to life in respect of an arbitrary death penalty. Article 13 (4) (a) of the Seventeenth Amendment to the Constitution stated that every person had the inherent right to life, and that no person should be arbitrarily deprived of his life; Mr. de Silva had said that that could not be interpreted as a derogation from what already stood in the Constitution. In such cases there had to be a ruling from a competent court, and he requested more details of the procedure; in particular, he wondered whether the existing law in Sri Lanka was strict enough, and whether there were any exceptions to the handing down of a ruling by a competent court. Articles 13, 14 and 15 of the Constitution contained a series of rights that were laid down in the Covenant, but article 15 established exceptions, notably the reference in article 15 (11) of the Seventeenth Amendment to the Constitution, which stated that the exercise and operation of the fundamental rights declared and recognized by articles 12 (1), 13 and 14 should, in their application to the members of the armed forces, police force and other forces charged with the maintenance of public order, be subject to such restrictions as might be prescribed by law in the interests of the proper discharge of their duties and the maintenance of discipline among them; that amounted to a derogation from the right to life, which was contrary to article 4 of the Covenant.

35. There were a number of derogations for reasons of law. Mr. de Silva had stated that amendments to the Constitution required a two-thirds majority in Parliament, and he wished to know whether the series of laws referred to in article 15 of the Constitution, and the proposed article 15, were regarded as provisions amounting to derogations and whether they too were subject to a two-thirds majority requirement for adoption.

36. Referring to paragraph 1 of the report, he said that rather than analysing the provisions of the Covenant to see which of them were appropriate to Sri Lanka, Sri Lanka should be examining its own legislation in order to ensure that it was in conformity with the provisions of the Covenant.

37. His concern with regard to the Prevention of Terrorism (Temporary Provisions) Act was that such acts, despite being described as temporary, tended to remain in force for a long time, and the Committee had had dealings with a number of States parties where that had happened. One temporary provisions act in Sri Lanka had been in force since 1979, which was far too long.

38. Habeas corpus was a remedy which should have immediate effect anywhere in the country, and a delay of two years was too long. Also, there seemed to be a contradiction between paragraphs 4 and 14 of the report, with paragraph 4 stating that a large number of cases had been filed alleging that persons were being illegally detained in custody, many of which had been accepted, and paragraph 14 stating that in 1989 alone more than 600 people had made applications for the writ of habeas corpus, only a handful of which had been

(Mr. Aguilar)

proved to have been of sufficient merit. He wished to know how many applications there had been, and how many had been declared valid. He also asked whether it was a court of law which determined the grounds of reasonableness referred to in paragraph 4 upon which a detention order made by the Secretary to the Ministry of Defence was subject to review, and what criteria were used in that determination.

39. Mrs. HIGGINS said that the report did not meet the Committee's requirements in terms of format and level of detail. However, she welcomed Mr. de Silva's open and constructive attitude towards any proposals which the Committee might wish to make concerning the latest bill to amend the Constitution.

40. She was particularly anxious about the efficacy of the remedy of habeas corpus and the delays in processing applications. It was her understanding that it had fallen into disuse because lawyers who engaged in such work feared reprisals against them.

41. With regard to the Constitution and the scope of the emergency regulations, Mr. de Silva had stated that the emergency regulations had to be compatible with the Constitution, but since the Constitution itself permitted them she was experiencing some difficulty with what appeared to her to be a vicious circle and she requested elaboration of the point.

42. As for derogations, article 15 (1) of the proposed amendment to the Constitution referred to the exercise and operation of the fundamental rights declared and recognized by articles 12 (1) (a), 12 (2), 13 (1), 13 (2), 13 (5), 13 (6) and 14 (1) (d) should be subject only to such restrictions as might be prescribed by law in the interests of national security or of public order, and she wondered if that was the language of limitation, which, if it were, would run counter to the provisions of articles 2 and 9 of the Covenant. Article 14 of the Constitution, which corresponded to articles 18 and 22 of the Covenant, did provide for limitations, so it would be necessary to consider on a case-by-case basis which came within the limitation. If the reference was to emergencies rather than to limitations, then the language did not meet the threshold conditions for emergencies. She sought clarification of the matter.

43. She asked whether the fact that the notification of a state of emergency made in 1989 referred only to derogation from article 9 (2) of the Covenant meant that that derogation was the only one that existed, or whether it was in addition to the derogation from articles 9 (3) and 14 (3) (b) referred to in the 1984 notification; she also asked whether the internal emergency provisions entailed any further derogations.

44. Mr. MYULLERSON, noting that Mr. de Silva had referred to laws which had been in effect in Sri Lanka for centuries and which should be modified, asked which laws they were, in what ways they contradicted the provisions of the Covenant, and how those contradictions might be overcome. With regard to the right to self-determination, and its internal aspect in the Sri Lankan context, he wanted to know what the separatists' demands were - whether they wanted to break away completely from Sri Lanka, or whether they merely wanted a degree of autonomy in their own territories; he asked how the Sri Lankan Government envisaged the situation being resolved, for it clearly had a negative influence on the implementation of human rights in the country as a whole. He shared the concern expressed by other members of the Committee with regard to the delay in the habeas corpus procedure.

45. Mr. EL-SHAFEI, regretting that the report was short, welcomed the provision of written answers to the list of issues; it was, he said, the first time the Committee had received written answers, and it was a most welcome development. He also welcomed the fact that chapter III of the Constitution, referring to fundamental rights, borrowed much from the language of the Covenant. The Sri Lankan delegation had stated that, because the rights and freedoms of the Covenant were enshrined in the Constitution, there was no need to incorporate the Covenant into domestic law through a specific enactment, but it was never possible to devise a constitution which exactly matched the Covenant. For example, article 11 of the Constitution stated that no person should be subjected to torture or to cruel, inhuman or degrading treatment or punishment, whereas article 7 of the Covenant contained a second sentence to the effect that no one should be subject without his free consent to medical or scientific experimentation, thereby adding a dimension that was absent from the Constitution. The Constitution dated from 1978, and he asked what the Government of Sri Lanka had done to update its legislation in light of the subsequent Convention on the Rights of the Child. In general he would welcome the views of Mr. de Silva as to the difficulties he saw with regard to incorporating international human rights treaties into domestic legislation.

46. The restrictions on fundamental rights covered by article 15 of the Constitution referred to "such restrictions as may be prescribed by law in the interests of national economy", and that limitation was retained in the proposed Seventeenth Amendment. It caused him some concern, because while economic systems changed, constitutions were supposed to have a more permanent status.

47. Mr. WENNERGREN asked why individuals had no direct access to the Parliamentary Commissioner for Administration, or Ombudsman. He noted that an individual had to turn first of all to his Member of Parliament, who might then pass his petition on to the Parliamentary Petitions Committee, which might, finally, refer it to the Ombudsman. He wondered why Sri Lanka had chosen a system in which censorship could take place at a number of stages, whether constituents had a particularly close relationship with their Member of Parliament, and to what extent Members of Parliament were aware of the human rights enshrined in the Covenant.

48. Mr. LALLAH said that he agreed with a number of Committee members that the report was an inadequate basis on which to form an opinion about the implementation of the Covenant by Sri Lanka. Precisely because the report dealt with a country under a state of emergency, it should have provided a detailed enumeration of the rights that had been derogated from and an evaluation of all the derogations; and it should have given much-needed background on the nature of the conflict in Sri Lanka and the reasons for the current situation, so that the Committee could better understand the measures taken. The next periodic report should compensate for those omissions, but he earnestly hoped that the exceptional situation in Sri Lanka, which had thus far lasted seven years, would have come to an end by then.

49. Although he would have welcomed more time to consider the proposed Seventeenth Amendment to the Constitution, he did note with regret that the text did not amend article 16 of the Constitution, which upheld the validity of pre-existing laws, notwithstanding their inconsistency with chapter III of the Constitution governing fundamental rights. By way of explanation, the representative of Sri Lanka had cited the need to preserve continuity in a non-revolutionary State. Perhaps the Government would, in the light of the constitutional provisions adopted by other States in a similar position, consider including - as it had done in relation to chapter IV of the Constitution - a general clause to the effect that the Constitution was the supreme law of the land and that any other law inconsistent with it was void to the extent of that inconsistency.

50. He was curious as to why, throughout the proposed Seventeenth Amendment, the concept of ethnicity had been substituted for that of race, and whether the substance of the two terms was the same.

51. He also noted that the proposed Seventeenth Amendment in some clauses did not explicitly enunciate the relevant right. Article 13, for instance, spoke of arrests but did not spell out the right to liberty and freedom. The possibility of remedies hinged on the proper enunciation of rights in the Constitution.

52. Article 12 of the proposed Seventeenth Amendment appeared to express merely a formal concept of equality rather than the fully evolved concept of substantive equality requiring enforcement by law. The Committee had rich jurisprudence on that question, which might be of assistance to the State party. He was aware, however, that article 12 (4) did offer the possibility of affirmative action to disadvantaged sectors of society - women, children, youth or disabled persons. With regard to women and children, he was concerned by the inconsistency of the "personal laws" with accepted notions of basic rights and non-discrimination on the basis of sex or other criteria. The report had provided no information on how the "personal laws" derogated from the rights of women and children, even though the proposed constitutional amendment specifically recognized that their needs must be met.

(Mr. Lallah)

53. A more difficult question was that already raised by Ms. Chanet and Mrs. Higgins regarding derogations from rights in times of emergency within the framework of the Constitution itself as creating a kind of vicious circle. The problem lay in article 155 (2) of the Constitution, which could result in the notion that, all basic rights having been spelled out and the possibility of derogations having been established, all derogations authorized under the Constitution were possible not just in times of emergency but in normal circumstances as well. Other constitutions guaranteed fundamental rights, and provided for derogation from rights in times of emergency, but they also strictly limited the kinds of derogation, their extent and the particular rights subject to derogation.

54. Mr. de SILVA (Sri Lanka), responding to the questions raised concerning section I of the list of issues, said that it was a misconception to think that habeas corpus actions had been delayed for two years. When an application for habeas corpus was filed, a writ was issued immediately and the person was immediately produced in court. If the detention itself was being questioned, the court investigated the matter, and that was the part that could take time. The situation was particularly difficult when a petitioner claimed that a person was in custody and the State organs involved said that he was not. Such a matter could not be resolved in 24 hours: Sri Lankan law required a detailed affidavit on the alleged arrest from the petitioner and corresponding affidavits from the State bodies concerned, and an investigation of any conflict between the affidavits by a magistrate. Moreover, the remedy of habeas corpus could, under article 154P (4) of the Thirteenth Amendment to the Constitution, be filed in any of the 16 or 17 High Court zones and not just in Colombo; although it should be borne in mind that, given the size of the country, Colombo was no more than 200 miles away from any point.

55. In determining the "reasonableness" of any restriction on rights in Sri Lanka account was taken of the exigencies of the situation and the nature of the restriction sought. Reasonableness was virtually impossible to define, but his Government used as a yardstick the body of administrative law, where the most work had been done to define it.

56. As to the concern expressed that the proposed Seventeenth Amendment made the right to life open to derogation, he gave assurances that article 15 (1) of the proposed amendment, dealing with permissible derogations, specifically excluded article 13 (4), which governed the right to life.

57. Concern had been expressed that the word "temporary" in the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979, as amended by Act No. 10 of 1982, had not been defined. Section 29 of Act No. 48 stipulated that its provisions would remain in effect for three years. At the time it had been hoped that the terrorist activities in the country would be controlled within three years. However, as the situation had persisted for 12 years, it had been necessary to keep extending the provisions of the law.

(Mr. de Silva, Sri Lanka)

58. As to the cause of the conflict in the northern and eastern provinces of Sri Lanka he explained that since the end of 1975, some persons in the country had taken to terrorism as a means of severing a part of the country from the rest. Politicians and legitimate elected officials in those areas had been assassinated. The separatists' demands centred on their claim to a traditional homeland, whose boundaries had shifted from time to time. It should be borne in mind that in Sri Lanka, the principle of self-determination was interpreted - as it was in the United Kingdom and other countries - as being in effect only at the point of decolonization. He was aware that certain other countries thought of self-determination as an ongoing process that had to be reviewed from time to time, but that was a political judgement on their part.

59. In any case, since the problems had begun, the Government had tried various regional autonomy solutions. The Thirteenth Amendment to the Constitution had established the Provincial Councils, and provided a degree of autonomy that had been judged by several other Governments with which Sri Lanka had discussed the question as being a sufficient measure of devolution. Many years earlier, the separatists had sought a regional autonomy whose parameters had been far exceeded by the concessions made and the recognition of devolution found in the Thirteenth Amendment. However, that amendment had not appeared to satisfy them and they still were not satisfied. The problem was a political one to which he himself had no answer. As Attorney-General, he could only describe the legal framework within which the Government had attempted to solve it, namely, the measure of autonomy just described and the establishment of self-government in the many areas of activity spelled out in the Ninth Schedule established in article 154 G of the Thirteenth Amendment. He could not speculate what would placate the terrorists in Sri Lanka. There was an ongoing dialogue with them but, faced with murders and bombings, the State had to act, and it was difficult to say how far the situation could be allowed to go before the Armed Forces had to be brought in. No country had yet found a satisfactory solution to terrorism. Sri Lanka was doing its best.

60. He felt that it would not be proper for him to answer the question regarding the Indian peace-keeping forces - which in any case were a matter of historical interest only, since they had left the country a year earlier - without consulting the State concerned. He wondered if the Committee really required a specific answer.

The meeting rose at 12.55 p.m.